

GENERAL MINUTES  
 THE BOARD OF ZONING APPEALS  
 CITY HALL – ROOM 40  
 SAINT PAUL, MINNESOTA  
 SEPTEMBER 6, 2022

BOARD MEMBERS PRESENT

Daniel Miller  
 Luis Rangel Morales  
 Diane Trout-Oertel  
 Thomas Saylor

STAFF PRESENT

David Eide                      DSI  
 Yaya Diatta                    DSI  
 Andrew Hogg                  DSI  
 Maxine Linston                DSI

ABSENT BOARD MEMBERS: Robert Clarksen, Danielle Swift, Marilyn Porter

ABSENT: Peter Warner - City Attorney

APPROVAL OF MINUTES for AUGUST 22, 2022, Approved 4-0

Moved By: Trout-Oertel / Second By: Saylor

APPROVAL OF RESOLUTIONS - None

**Old Business**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
22-072764	Friends of Pig's Eye Lake Park- Tom Dimond	Rangel Morales	Saylor	4-0	Denied

**New Business**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
22-082821	865 Newcomb Street- PaYing Vang	Rangel Morales	Trout-Oertel	4-0	Denied
22-083509	1712 Orange Avenue East- Salamatu Forte	Rangel Morales	Saylor	4-0	Denied
22-086120	1841 Lincoln Avenue- Amy & Kurt Atkinson				Continued to next meeting

Submitted by: Maxine Linston

David Eide

Approved by:

Diane Trout-Oertel, Secretary

## BOARD OF ZONING APPEALS HEARING MINUTES

THE BOARD OF ZONING APPEALS HEARING

CITY HALL – ROOM 40

SAINT PAUL, MINNESOTA

September 6, 2022

PRESENT: Members of Board of Zoning Appeals: Mr. Miller, Mr. Rangel Morales, Mr. Saylor, Ms. Trout-Oertel

Department of Safety and Inspections: Mr. Eide, Mr. Diatta, Ms. Linston, Mr. Hogg

ABSENT: Mr. Clarksen, Ms. Swift, Ms. Porter, City Attorney Peter Warner

The meeting was chaired by Daniel Miller

Sidebar before Hearing:

Mr. Miller- Okay, just so everybody knows, we're waiting for a fourth to reach quorum in order to do any action. I can tell you, for Pig's Eye, what the action will be, is to reopen portion of the public hearing in order to receive those documents. Okay, good. We have a fourth and then we're going to have to move to lay over, because we won't reach a quorum. We already know that for a vote, just so you know, that's the only action that's going to be taken today. But now that we have our fourth. We'll do that right away.

We have two, we have two board members out sick and one on vacation. It's been a real struggle for us in general.

Mr. Dimond- Another alternative would be to send it out without a recommendation. Otherwise the timeline...

Mr. Miller- And some of those details, usually our attorneys here to help us out with. So what we're going to do is hopefully move to lay it over, will reopen to admit your documents, then public notice has to be sent out again in order to have those count, unless you just want to say forget it and not put those into public record. It's up to you, really.

Mr. Dimond- I think that we should have those in the public record, I appreciate that. What I'm saying is, if you send it out with no recommendation, then at least we could move to the City Council. Otherwise, the time just keeps...

Mr. Miller- Go ahead, we haven't even started yet.

Mr. Diatta- Are we talking about time in terms of a 60 days?

Mr. Miller- Right

Mr. Diatta- What time is he talking about?

Mr. Dimond- I'm talking about, they're dumping pollutant into the lake every day.

Mr. Miller- I guess I'm not sure at what point you're allowed to appeal to the city council? Do we need to reach a decision first? Maybe Luis would know.

Mr. Eide- Yes.

Mr. Dimond- That's why I'm saying a decision and with no recommendation.

Mr. Miller- So, is that a decision that can be made? No, I think it has to be one way or the other. Would it be better to deny, and then you can go to the city council?

Mr. Dimond- No, because that's saying that the board thinks it's wrong. A neutral decision is best.

Mr. Miller- I never had a neutral decision.

Mr. Diatta- It's got to be either a yes or no. We can't make it neutral decision because we have all the information, both parties have spoken. I think a decision has to be made to move it forward.

Mr. Rangel Morales- Sorry. Why can't we reach a decision?

Mr. Miller- We won't make a decision, the board is split.

Mr. Rangel Morales- Oh.

Mr. Miller- And we have four members on present and that's what it was last time too.

Mr. Rangel Morales- Okay?

Mr. Miller- And the time that we requested more information.

Mr. Diatta- We should get started.

Mr. Miller- Yeah. Okay, good afternoon and welcome to the Board of Zoning Appeals. Our purpose is to review and decide upon requests for zoning code variances, administrative reviews, and requests to modify the home occupation requirements for handicapped individuals. If you intend to testify today, we ask that you start your remarks by giving your name and address. Staff will first show slides of the site, a presentation of findings and some discussion will follow. I will then call in the applicant, then those in favor and those in opposition and at that point, the board may call back the applicant in case we have additional questions.

We'll take the cases in the order they appear on the agenda. Few words on speaker time. The board limits this to a total of 30 minutes for those speaking in favor and an equal 30 minutes for those speaking in opposition. Individual speakers are limited to three minutes each. Please be mindful of this. If you have submitted a letter or email, a reminder that there is no need to read those documents as they're already part of the public record. Please provide your key points without repeating ideas presented by previous speakers.

Present today from the Department of Safety and Inspections are David Eide, Yaya Diatta, Maxine Linston is our secretary. My name is Daniel Miller, I'm the chair of the board. Before moving on to the first order of business, I will ask the secretary to call roll call of those board members in attendance for today's hearing.

Ms. Linston- attendance roll call: Saylor-Present. Rangel Morales-Present. Trout-Oertel-Present. Miller-Present.

### **Approval of Minutes for August 22, 2022**

Mr. Miller- Our first order of business, is the approval of the minutes from August 22, 2022. Can we get a roll call for that? Sorry, do we have a discussion motion?

Ms. Trout-Oertel- I'll move approval of the minutes as submitted.

Mr. Miller- Is there a second? Saylor.

Mr. Saylor- I'll second that motion.

Mr. Miller- Okay. Maxine roll call vote.

Ms. Linston- roll call vote: Rangel Morales, I was absent but I'll, Yes. Saylor-Yes. Trout-Oertel-Yes, Miller-Yes.

**Old Business:**

22-072764 - Friends of Pig's Eye Lake Park – Tom Dimond

Mr. Miller- All right. We're going on to our first order of business. At this time, we decided, I think, the course of action will be to reopen the public portion of the hearing in order to receive the documents provided by Mr. Dimond. So if anybody on the board is in agreement with that course of action, we will need to have a motion or discussion.

Mr. Rangel Morales- Did we open the public hearing again, based on the new letter from the Department of Natural Resources last time?

Mr. Miller- We received that on...that was our request, and staff provided it.

Mr. Rangel Morales- Right, but then did we reopen the public hearing to provide allow them to provide input on it?

Mr. Diatta- No, we did not re-open it, I don't think.

Mr. Rangel Morales- So this is a question for the board members. Is there any interest in hearing an answer from the applicants about the letter that we received from the Department of Natural Resources? If we're going to open the public hearing again?

Mr. Miller- Do we need to...

Mr. Rangel Morales- No. I'm asking first before I make a motion, whether there's any interest in hearing anything additional from another board member.

Mr. Saylor- From another? Can you clarify exactly. I'm not sure I understand it?

Mr. Rangel Morales- We're opening the public hearing again.

Mr. Saylor- Yes.

Mr. Rangel Morales- We received a Department of Natural Resources letter two weeks ago. I'm just wondering if there's any interest in hearing from the applicant, what their response is to the Department of Natural Resources. The way I understood the letter from the Department of Natural Resources is that they're finding continues to be six hundred and ninety two point nine feet. That's the letter from the DNR. The applicant continues to make an assertion that the level at the dam was consistently held at a lower level. The DNR provides an answer to our question about the classification for Pigs Eye Lake. And then also explains the difference between dams, it looks like. So the assertion that the (looking at page 2 at the bottom), it says the assertion that the project pool elevation of lock two and dam two of 686.8 feet is equivalent to the ordinary high-water level for Pigs Eye Lake is incorrect. So that's, that's the basis for what it seemed the entire argument was based that the dam is kept at 686.8 feet, and therefore that would be the ordinary. If that's the ordinary amount that a dam is kept on, it would be the ordinary amount that the lake would be kept on. The DNR appears to disagree with that. The project pool elevation represents the low level water level of Pigs Eye Lake. The ordinary high water level of any public water must be a high water level. And they went about what is extremely high, ordinarily high, they make clarifications about it. And actually to me, I'm not an expert in this, so I'm just curious if anybody would be interested in hearing from the applicant about why they continue to insist that it's the correct level mark would be 686, not 692. Does that makes sense?

Ms. Trout-Oertel- Yeah, my understanding is that it's an arbitrary figure. The OHWL. And then there's something in the regulations or definitions in the ordinance that says that the OHWL cannot be arbitrary. So I guess. Yeah. That is certainly one of the points to consider in this. I would like to add one: the islands if you want are going to be brought about 10 feet above what some people would consider the ordinary level of Pigs Eye Lake, and the work is going to be

taken place (in the beginning) above everybody's definition of the OHWL. So I think that is not very clear that the city does not have anything to say about what's going on. So, I would add that to the point that you made, commissioner Rangel Morales.

Mr. Saylor- This letter, dated August 17th. I wanted to check with staff and with Andrew Hogg, did we have the opportunity last week to hear from Andrew about the contents of this letter? This letter is not new to our documents, is it?

Mr. Hogg- The letter from, thank you board member. The letter dated August 17, 2022 from the DNR is in response to your questions. It was submitted, and this is what the DNR, their position is. And so the city is under the position that it's below the ordinary high water level based on the DNR's recommendation, who has the jurisdictional agency over the water.

Mr. Saylor- And as a follow-up to that, Mr. Hogg, is that consistent with the information you shared with this board two weeks ago?

Mr. Hogg- I believe, so.

Mr. Saylor- Thank you.

Mr. Rangel Morales- So again, it just it raises to me the issue of what certain numbers mean and the DNR appears to be classifying the 686.8 feet not as the OHWL ordinary high water level mark, but as the minimum water level that is necessary for navigational waters. In other words, it seems that the dam is not used to control water levels, but it's used for navigation to maintain water levels at the elevation required for navigation. During periods of high flow, the gates are completely raised completely out of the water, allowing the river to flow freely. In other words that the DNR appears to be saying that unlike a dam, which controls the water level for downstream, at a certain threshold. This is mainly for boats, or you know, whatever is floating down the river to be able to navigate the river.

And so they've referred to it as the minimum water level, not the OHWL. and so, I am personally curious as to having received this from the DNR specifically specifying that, what the contention still is. Because it seems it's pretty clear to me that the DNR is, that we're talking about two different things. One, the number cited by the applicant appears to be referred to by the DNR as a minimum water level, where the standard that we should be using is the ordinary high water level mark. And I'm not saying I know how to get to these calculations. I'm just saying that this is what the DNR is providing. My question to the other three board members is whether there's any appetite to hear additional clarification from the applicant about any rebuttal to this report from the DNR which appears to continue to insist that the ordinary high water level is six hundred ninety two point nine, which is point three feet higher than what the islands are being proposed at, which would then remove any jurisdiction from the city.

Mr. Miller- I think it would be fair to offer that opportunity.

Mr. Rangel Morales- So at this point then I'll make a motion to reopen the public hearing to allow for the addition of materials by the applicant. And then to take additional information based on the new report, if that's okay with Mr. Diatta.

Mr. Diatta- Chair, Board Member Rangel Morales. That should be fine. But based on legal advice, we get from legal counsel, if you do that, then that means you cannot make a decision because we have to re-notify and then hold another public hearing.

Mr. Rangel Morales- Okay.

Mr. Diatta- So the problem with that is, what if the applicant comes up with more information next time, then what? It seems that we are kicking the can down the road and not being able to make a decision, and again that would be counter to what he's trying to prevent because then activity is still going on.

Mr. Rangel Morales- So I'm curious, what is the point of receiving additional materials, if we open the public hearing? So I'm going to withdraw my motion for now. But until what's the point of receiving additional materials?

Mr. Diatta- Chair and board member Rangel Morales. I'm not sure how this material, this material is different from what's already been provided. And again. I am just concerned that it's going to open a floodgate of more information, coming up later that you may have to reconsider again. But it's up to the board. This is the counsel advice this morning. Unfortunate he's out with some serious medical issues. But he did say he is available on a phone if you need, if we have questions for him.

Ms. Trout-Oertel- I did not feel like the letter from the DNR added any new information to what we got previously. But I don't know how the rest of you feel but it solidified the DNR's standpoint. I mean, the information that they had supplied earlier, I felt. Maybe I missed something. That bears some, that has some bearing on whether we would need to open the public hearing again.

Mr. Miller- I think the DNR, at our request, explained how they came to their decision. We already knew their decision, as to what the ordinary high-water level was. And we asked how they came to that conclusion and they provided that information for us.

Mr. Rangel Morales- So may I ask who voted, how the votes came last time?

Mr. Miller- Last week was split 2-2 initially.

Mr. Diatta- 3 to 1.

Mr. Miller- 2-2 initially, Trout-Oertel and Swift.

Mr. Diatta- Was it 2-2?

Mr. Eide- 2-2, 3-1 was the second vote.

Ms. Trout-Oertel- I can see that with the current regulations when this came through, through zoning, it was, certainly their decision was defensible to not require permitting or a zoning permit. However, once all this information came to light afterward, I believe that it would behoove the city to do something, investigate it more. We have hold some kind of consultations and I believe nothing happened and I think that the applicant has presented some pretty serious issues for consideration and to just dismiss it doesn't seem right to me. So I guess I feel like the BZA could at least draw attention to these various serious environment potential environmental problems by supporting the appeal. And maybe that is not, you know, what we're supposed to do. But I feel that we can't just sort of just dismiss this.

Mr. Miller- I don't think that we're dismissing it. I think the we're just upholding the decision of the Zoning Administrator. They're given information by the DNR that says this is the ordinary high-water level. I mean, if we have, if there are environmental concerns, I think that they should be brought directly to the DNR and I don't understand why, quite frankly, it has gone through this channel. And they're the ones that issued the permit.

Mr. Rangel Morales- So I just have a question for Mr. Eide. I remember there was a so the they make, the final question I have about it is just, they talk about it being a water basin. I remember that was a question that we had because that was important. I wonder if you have, or Mr. Hogg has the three different classifications of what this type of body of water could be labeled. And it was like a, someone accessed it, and it was a presentation, a reservoir, a lake, or a flowage. So, what is a water basin, is that a flowage?

Mr. Hogg- Board member Rangel Morales, the document you're referring to is Technical Document 11. It is in your packet. The DNR is who makes the designations. I do not know the process. All I know is there is a technical document that they use to do the process of what water body is. They would be the best to answer that question.

Mr. Rangel Morales- Right? And so they call it a basin. I'm sorry. Can you direct us to what particular page?

Mr. Hogg- Yeah. It is the document that looks like this near the end of your packet. The first page, introduction, number one. They don't table them specifically, but I would tend to believe that number one would be how they determinate basins, two would be watercourses, and three would be rivers and flowages.

Mr. Rangel Morales- And so they're calling it a basin. So it does that, again, what type of classification is that? I didn't think it was answered in our questions, I know it was because just looking at again we're asking people who are in different areas and professions that don't deal with this particular issue to answer a very technical question and one of the questions that we did have towards the Department of Natural Resources was, what is the classification? And I don't remember reading it when I read.

Mr. Hogg- Question one is page one of the DNR letter on the 17<sup>th</sup>. Second and third page, they talk about it being a public water basin. It is connected to the river with a channel. The lake fluctuates with the water level on the Mississippi. It says, last statement of that first paragraph: Therefore, the ordinary high water level on the lake is determined to be the ordinary high water level on the Mississippi. Again, using these guidelines they are calling it number 2, it is a watercourse; they use the top of the bank. The same as they discuss in Technical Document 11. On page 7, for watercourses, it says tops of the channel banks. Top of the channel banks are... (inaudible) If one bank is higher than the other, they need to be a consistent level.

On page 7 they are talking about a watercourse. The second paragraph on question one. In accordance with the definition, the ordinary high water level is the elevation of the top of the bank of the channel. Due to the dredging, levee construction, the top of the bank is limited. They talk about how they use modeling to define the ordinary high water level. Does that answer your question?

Mr. Rangel Morales- Yeah, I mean. So based on the way that they're you're inferring that, it's number two, because they don't actually call it a watercourse. Do they?

Mr. Hogg- They don't. But they do say they are linking it to the Mississippi River. The second paragraph states that they are using the top bank of the channel. First sentence. Number two talks about watercourses, where they are talking about bank tops. Hopefully that answers your question.

Mr. Rangel Morales- It does. Thank you. So that was the last question I had, sort of pending in my mind as to one that we had asked, and we were hoping to get additional information. At this point, from my perspective, it seems that the experts from the DNR have provided their feedback, and the city has decided to rely on that opinion and that is what we're being asked to continue to rely on. And I don't see anything different, or, so I think we were asked to look at what is the classification of this particular? We got an answer to that, it seems. Based on Mr. Hogg's analysis and breakdown, and thank you for doing that, is they're calling it a watercourse. That was a question because of the difference between the three different OHWLs between the three classifications and they explained why they're not using 686.8 feet. I'm not saying I agree with this, in terms of that it's that analysis is correct. I'm just saying, that's what the DNR is telling us. That's what the DNR is, telling the city. And, the city's choosing to rely on that. And I don't see how, and that leads me to the question of. Do we want additional input as a rebuttal for this? Because I'm sure, you know, someone could maybe answer differently but then we run into the issue that Mr. Diatta pointed out. And so then the question is that if we make a resolution on this if it gets appealed, this letter has sort of provided an explanation of how the city made its decision and can be addressed at City Council. But I'm not...that's just my opinion. So I'm curious to hear from others.

Ms. Trout-Oertel- Well, yeah, I agree. by the way. And the problem is that the appeal states that the zoning administrator erred, in it's not issuing a stop order, but they don't have the authority in this on this project to issue a stop order because of the fact of where the project is now and how the regulations read. So, I agree that we need to move, it would be great if we could come to a decision today so that this can go to the next step which likely is an appeal to the common council. So, I'm willing to change the vote that I made last time so that we can move forward.

Mr. Miller- We can certainly encourage the City Council to read through and to know that this was difficult, and it's why it's been laid over several times and more information was requested.

Mr. Rangel Morales- Part of the reason I'm sort of thinking this process out loud is based on the letter which I, you know, I you know I think it could have been a little more direct in labeling certain things. But those are the answers that that the DNR is providing and so if in the course of making this decision, there is a rebuttal to it. I'm sure the applicant will be able to provide that information to city council because they're probably going to read this letter from the DNR and have the same questions that we're having, and they'll be able to provide all the materials that they want to provide in addition to this. And it really seems that if there is another answer for this, perhaps that's the best avenue to move forward. That's just my opinion, I don't know that everyone else would agree with that.

Mr. Eide- Chair Miller and board members, I just wanted to confirm that there will be, if you were to deny this appeal here, then it would go to the City Council. There would be a public hearing and the applicant could submit whatever they wish to the city clerk. No more staff reports are written, all the information we have would just be sent to the city council, they review it, then they'd be looking for any errors that the board made.

Mr. Rangel Morales- And will the applicant be able to provide additional information and testimony?

Mr. Eide- Correct, they would be able to speak in person and submit whatever written documents they wish to.

Mr. Rangel Morales- I do think it's I agree in some sense with commissioner Trout-Oertel in the sense that, I was a bit perplexed at the city sort of just washed their hands off of this and say we don't have jurisdiction when I guess I don't know how much discussion was had between the legal team in terms of this issue or between the legal team and DSI. I imagine a lot. But, you know, again it seems, you know, when we reviewed the materials, it really seemed that the public process that the DNR had was not open to allow for community input. It allowed for entities like the City to provide input or I don't know who from the city would do that, Mr. Diatta, would, you know?

Mr. Diatta- Chair Miller, and board member Rangel Morales, are you asking, who would the DNR engage in terms of outreach at the city?

Mr. Rangel Morales- Well, no. In the material that we originally received from the DNR it said that a public hearing was held on this, or they provide allowed for public input. But the people that they reached out to, or it appears to be more like, Ramsey County, the City of St. Paul. And more of the State entities that would be involved for public input or for, like, for this, essentially, this process and it really felt, it really feels, as a St. Paul citizen. It really feels like that didn't allow for a for individuals themselves who had maybe concerns about this, to be able to voice their concerns.

Mr. Diatta- I'm not sure. When we do outreach, sort of, for the variances. When the city has a variance, we notify neighbors within a certain distance of the property. I'm not sure how the DNR notification or engagement works. If they notify, all the cities that are impacted by the Mississippi, or do they invite certain individuals that are located within that area where they working? I'm not sure. But I know there was public outreach. To who exactly, I do not know. I just wanted to add something too. Sort of what makes it a little bit challenging to you board members, is that if you disagree, then you have to do a counter analysis to the DNR report to say, this is where we believe you erred. How do you do that when you don't have the expertise that the DNR that DNR staff has? So that makes it challenging. This is unique case. I just want to add that.

Mr. Rangel Morales- So, to that point, Mr. Diatta, I would just say that I think the basis that commissioner Trout-Oertel herself pointed, I would argue that that's enough. If I had not been satisfied with this letter from the DNR. I think the due diligence from the city and in resolving this issue had too many open questions. That it would be wrong for the city administrator. But I do think that the letter being what they are and answering the major questions that we had following the second, the first hearing, for me, personally, it answers that particular issue.

Mr. Saylor- Just a question, as a point of order. What are the next possible steps as we sit here right now?



Mr. Miller- Someone would need to make a motion, to uphold, to deny.

Mr. Rangel Morales- I'll just make it, this one. Is that fair? So I'll go ahead and move to deny the application for the complaint stating that the city needs to issue a stop work order on Pig's Eye Lake, as the project is regulated and permitted by the Department of Natural Resources. The zoning administrator determined that the city has no jurisdiction over the work as to the DNR public water body and accordingly, no action was to be taken against the project. And so I would move to deny the appeal and allow the applicant, if they want, to appeal to city council.

Mr. Saylor- So just to clarify, you are upholding the staff recommendation that the BZA finds that the Zoning Administrator did not err in its decision?

Mr. Rangel Morales- Correct.

Mr. Saylor- Okay, thank you. I'll second that motion.

Mr. Miller- Seconded by Saylor. Can we get a roll call, please?

Ms. Linston- roll call vote: Trout-Oertel-Yes. Saylor-Yes. Rangel Morales-Yes. Miller-Yes.

Mr. Miller- This appeal has been denied, the staff recommendation was upheld. That decision is final unless appealed to the city council within 10 days. And I think that's probably the best course to expedite some action. Sorry that we were unable to come to this conclusion quicker.

Mr. Rangel Morales- Can they contact Mr. Eide, or somebody about the appeal process?

Mr. Diatta- Yeah.

Mr. Eide- Certainly.

Mr. Rangel Morales- And then I hope that our discussion was insightful to questions that city council might have and the applicant being able to use that opportunity to answer those additional questions, if there's answers that they feel may be available.

**Moved by: Rangel Morales/ Second by: Saylor**

**Denied 4-0**

**New Business:**

**865 Newcomb Street:** Mr. Miller- Okay, our next order of business 865 Newcomb Street.

Mr. Eide- Chair Miller before you read the purpose statement, sorry to interrupt. This one, we need to bring in a translator via the phone, so I thought I'd better get that going before we read the purpose statement, so bear with me.

Mr. Miller- Okay. And David, I'll let you read the purpose.

Mr. Eide- Okay. All right. Hmong. Thank you. We are in a board of zoning appeals meeting. We have some applicants that we need translated between, we need translation between the board and the applicants. So, first, I'm going to read the purpose statement and then if you could repeat that in English and maybe I need to pause and I'll put you up against the microphone, so the applicant can hear and we'll see if it's clear enough for them.

Ms. Linston- Do they want to come closer so we can hear?

Mr. Eide- So the applicant is proposing to construct a new off-street parking area in the side yard of the property access from Newcomb Street.

Translator- (*Speaking Hmong*)

Translator- Ok.

Mr. Eide- All right we're just speaking this right now to them. So, two variances are requested and the zoning code states that access to off-street parking shall be from abutting improved alley when available. The applicant is proposing to access the proposed parking space via a new driveway off of Newcomb Street for a variance of this requirement. And then number two is: The zoning code off street parking shall be from an abiding improved alley when available the applicant is proposing to access the proposed parking space via a new driveway off of Newcomb Street for a variance of this requirement.

Mr. Miller- David, just reading.

Mr. Saylor- Reading.

Mr. Eide- I'm just reading this part so we don't need a response, I'm just going to read the purpose statement and then we can all move on with the staff report. I'm just basically reading this and then we'll have a public hearing portion and then we will be able to take comments so sorry if that was not clear. Maybe if you could let them know that. That'd be great.

Translator- I'm sorry, it's a little hard to hear you. I can hear the echo. Also its looks like it's a bad connection. I'm going to try my best to here.

Mr. Eide- Okay, I'm sorry.

Mr. Eide- All right. So the zoning code requires parking be set back for feet from a lot lines. 0 feet has proposed from the southern lot line for variance of four feet.

Mr. Eide- Uh oh. It hung up. I dropped it.

Mr. Diatta- I wonder if they can use the microphone.

Mr. Eide- For the public hearing yeah, I don't know.

Mr. Miller- What if we open the public portion so they can at least respond that they understand?

Mr. Saylor- You can add the reading stuff, uh.

Mr. Eide- I'm just reading it right now and then we can.

Mr. Saylor- Yeah. But I think

Ms. Linston- It's easier to let them speak now as you're reading.

Mr. Miller- Yeah, let's just, let's just open it.

Mr. Saylor- With the translator. Maybe, can you can add that piece later? Just reading this into the record.

Mr. Eide- Yeah.

Mr. Diatta- That would be slow too.

Mr. Miller- Well, the record this only needs to be read into the record in English. Right?

Mr. Diatta- We can just explain without reading.

Mr. Miller- I think that we should do that. Yes.

Mr. Diatta- Yeah. Should explain just two variances and you can state the challenges, our recommendation and be done.

Mr. Eide- Okay. Yeah. All right. Try this again.

Mr. Miller- So we want to move to open the public portion? Oh wait. This is just the applicants.

Mr. Eide- Well, this is just the staff report part.

Mr. Miller- We need them to know that they understand it. So they need to be able to answer and they need to be able to sit at that table with the microphones.

Mr. Eide- Open it up, maybe?

Mr. Saylor- Do you have the translator?

Mr. Eide- Not yet, I need to get them back.

Mr. Eide- Hi. So we are in a Board of Zoning Appeals meeting and we have some Hmong speakers, we're trying to communicate with them about their case. So, are we going to open up the public hearing?

Mr. Miller- Will someone make a motion? I'm going to open up the public portion of the hearing. Can you ask the interpreter to invite them up to the chairs and the microphones.

Mr. Eide- All right, so our board, our chair just opened up the public hearing. Could you invite the applicants to the front table?

Translator- Do I need to interpret that?

Mr. Eide- Yes, please. Ask the applicants to come up to the front table.

Translator- (*Speaking Hmong*)

Mr. Eide- Can you say, please speak into the microphone.

Translator- (*Speaking Hmong*)

Applicant- Ok, I hear you.

Mr. Eide- All right, sum up the staff report, maybe? So the applicant is applying for a, this code section, 63.501. Typically, when folks have alley access, they are required to use the alley, unless there's some terrain issue.

Translator- (*Speaking Hmong*)

Mr. Eide- The second variance is the setback, which the zoning code states you need a four-foot setback from all property lines and applicants proposing 0 feet from the south southern property line.

Translator- May I please have you repeat that?

Mr. Eide-. So the zoning code requires a setback for parking spaces of four feet. And applicant is proposing 0 feet from the southern property line.

Translator- (*Speaking Hmong*)

Mr. Eide- And then there are six findings that the Board of Zoning Appeals needs to find true for every zoning variance request. And I can sum up the ones that were not found to be met for this case.

Translator- (*Speaking Hmong*)

Mr. Eide- So finding one was that the variances in harmony with the general purposes and intent of the zoning code. And we the zone administrative determined that there was not a unique circumstance that warranted a curb cut from Newcomb given that there is alley access that is traversable in the back of the property.

Translator- (*Speaking Hmong*)

Mr. Eide- And then the second one was about the comprehensive plan, which seeks to minimize and consolidate driveway curb cuts. So that finding was not met.

Translator- Can you repeat the whole thing?

Mr. Eide- Yep. So the second one was that the variance is consistent with the comprehensive plan and staff found that it was contrary to T12 of the 2040 plan, which seeks to minimize and consolidate driveway curb cuts.

Translator- (*Speaking Hmong*)

Mr. Eide- Staff found that the property is relatively flat and it currently has a detached garage that is accessed via the alleyway behind the house. Given that the property is currently using the alley and the parcel is flat with no topographical challenges. It is reasonable to require that the property continue using the alley.

Translator- (*Speaking Hmong*)

Mr. Eide- And then so when we discussed with the property owner, it was determined that someone was storing their boat and trailer behind the property in right away, which is blocking access to the northern part of their property. And then I, staff, went out to the site to look at it and confirm that this is true. I actually also spoke with Parking Enforcement, and I don't know if they didn't get out there to clear out the people that were parking there but they might have.

Translator- (*Speaking Hmong*)

Mr. Eide- So here's a photo of the back of the property with the boat and trailer that are currently blocking access to this property, but they're parked illegally in the right-of-way. So they need to be removed. And I don't believe these are the applicants. It's someone else.

Translator- (*Speaking Hmong*)

Mr. Saylor- So, just to clarify the boat and the trailer do not belong to the applicant.

Mr. Eide- Chair Miller and Commissioner Saylor correct.

Applicant- (*Speaking Hmong*)

Translator- It is the neighbors on the other side it belongs to them. they removed the boat and they placed a car there.

Mr. Eide- So, I'm just going to sum up the last few parts on the staff report that the plight of the landowner is due to circumstances unique to the property. Staff believe that the temporary illegal storage situation was not created by the landowner, however, there is a remedy for this, which would be Parking Enforcement getting those items removed from the alley so that they can access the rear of the property.

Translator- Can I say something?

Mr. Eide- Yes.

Mr. Miller- Okay.

Applicant- (*Speaking Hmong*)

Translator- I'm going to rephrase before I interpret, is this okay?

Translator- Okay, I have two request. Number 1, because that is the playground for my children. We have a lot of our children play on that part and actually I don't want a fence there. If you put a fence there, then my children will not have

a place to play right there. They go down, go across the street to play on the other side. It's too dangerous for my kids and it's not safe for the children. Secondly, if we asked the neighbor to move their cars and their trailer, then the neighbors, going to get mad at us and I don't want neighbor to get mad at us.

Mr. Eide- All right, so the last bits of the staff report. Accessory parking at a single-family dwelling is permitted. So that will not create a use that's not allowed. And then staff did not find that it would alter the essential character of the area.

**Correspondence:** We did not receive a recommendation from the District 4 - Dayton's Bluff Community Council. We didn't receive any correspondence regarding their variance request. Based on our recommendations based upon findings 1,3 & 4 staff recommend denial of these variance requests. You can speak what they wish to speak to the board we will be able to ask questions of them.

Translator- May I have a word.

Mr. Eide- Okay. Yes. I believe the chair has to make that decision.

Mr. Miller- Can you hear me?

Translator- Yes.

Mr. Miller- Okay. I'll ask each individual speaker to start with your name and your address and then you can say whatever it is, you'd like to say.

Translator- (*Speaking Hmong*)

Mr. Eide- Begin with your name.

Applicant- (*Speaking Hmong*)

Translator- I'm going to rephrase.

Translator- Actually my name is Be Her. Regarding the property, address 865 Newcomb Street. There's no parking for building that it's going to take ten feet away then actually, I think for that, I'm worried that if the access on the backyard and like that, then the neighbor will not like it. And they don't want the neighbor to that mad at us.

Applicant- (*Speaking Hmong*)

Translator- We don't want to do anything like that on the back because we like to have a safe place for the children. And 8 feet is what it is and for 10 feet, I don't know if that is okay for us.

Applicant- (*Speaking Hmong*)

Translator- The land that we have is about 10 feet. Can we use that?

Applicant- (*Speaking Hmong*)

Translator- I have a question, the neighbor has the same kind of lot like us, and they can do it and we can't do the same thing and I just wonder why?

Mr. Eide- So, these properties they would have been developed prior to this rule coming into new existence. So they would be grandfathered in.

Applicant- (*Speaking Hmong*)

Translator- Oh, I would like to ask this, if we cannot do our driveway and we have to do from the back only and it's not safe for our children and actually if we do a driveway on the back, the neighbor will not like it and they will not be happy and if they not happy for what we do they will get mad at us? They gonna damage our property. And if we actually do

the driveway on the back, then the kids will have play on the side of the road that is going to be danger for their kids and actually they will be a problem for the children and they will be a problem with the neighbor not happy that we put a driveway on the back like that to take out the property.

Applicant- *(Speaking Hmong)*

Translator- My point of view is I really do have 10 feet in the front to do the driveway. And why can't I do? What kind of rules is that that I cannot do and secondly, it will be safe for the children and also, the neighbor will not get mad at us. That's my question to ask.

Mr. Eide- Chair Miller and board members. I would say that we're working under 63.501. Zoning variances, we have to use the six findings. And one of the findings is the essential character of the surrounding area. Because the applicants spoke about driveways nearby being, you know, like what they want to propose. However, just because other people have it does not mean that it's automatically granted.

Translator- *(Speaking Hmong)*

Mr. Saylor- I just as a point that the concept of grandfathering is really challenging here, I think and that it because they see the clear contrast, the neighbor has it. They don't understand why it's good for one and not good for the other. So if we could find a way simply to explain that, that it's a question of when those houses were built, the law was one way. The law has been changed and we can work around that.

Translator- *(Speaking Hmong)*

Applicants- *(Speaking Hmong)*

Translator- Actually, whatever I say and the city will not allow me to do what I wish to do then. I have nothing else to say, but I'm going to have my daughter, see what she has to say, but I just want to let you know that if you don't allow me to do the driveway out front and if I do on the back then there is going to be problems. When is the problem can the city deal with it? Because there is a sign that I cannot park on the grass. And in a winter, I had to park on the grass up there. Will that be a problem?

Mr. Eide- I can respond to the parking on grass. Parking on grass is not permitted, but there is street parking that the applicant could use. Or they could create a space in the back or use the garage that is already on the property.

Translator- *(Speaking Hmong)*

Mr. Saylor- Does the garage work?

Mr. Eide- I guess that would be in a question for the applicant. Does the garage work?

Translator- The garage is working but is manual is not auto. But if the city didn't allow me to do the driveway and I have to do on back, then I rather to save the space for the children to play.

Applicant- *(Speaking Hmong)*

Translator- I have a request. If we cannot put a driveway there can the city move the sign of no parking right there? So we could park on the side of the road without getting a ticket. Can the city move the sign of no parking there?

Applicants- *(Speaking Hmong)*

Translator- There is a sign. No parking right there and we're not able to park right there in front of the house.

Mr. Saylor- The night plow sign.

Applicant- I'm just wondering that sign up for weekend or 24-hours, any season? Not clear understanding.

Mr. Eide- Chair Miller and Commissioners, during snow emergencies, they would need to move their cars but otherwise Whenever there's not a snow emergency, you could park there but not 24 or 48 hours.

Applicant- *(Speaking Hmong)*

Translator- If he cannot do the driveway can be sure to not have the sign right there at all please.

Mr. Eide- Chair Miller, Commissioners and Applicants: the zoning office cannot control the Public Works' signage. That is not controlled by us. But I do know as someone that's written tickets for snow emergencies, you could find a street that's not a night plow road and park there. I don't want to give bad advice because I don't know specifically here but there should be a street nearby that you could park on when it's a night plow route, nearby and there's a app I believe. with multiple languages too, I would imagine yes. We're happy to show them. Yeah I'm sure that we're happy to share the information.

Applicant- *(Speaking Hmong)*

Translator- I'm gonna rephrase that. I'm not quite sure what she's saying

Translator- Regarding that I could go and park at on the street, but I experienced before that if I don't park in front of my house and I park at neighbors front door or the street in front of them, they got mad, and, they damaged our car and it happens many times that I saw before.

Mr. Rangel Morales- You're allowed to do whatever you want on your property. Can you translate that?

Mr. Eide- Could you hear that?

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- So long as with it within what the zoning code allows.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- It sounds like your neighbor's property had their driveway built before the zoning code came into place.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- If individuals want to build something not allowed by the zoning code you have to ask for a variance request.

Translator- May I please repeat that. I don't hear everything.

Mr. Rangel Morales- If you want to build something that's not allowed by the code, you have to request the variance request from the city.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- In order for the city to say or us to say yes, you can build the driveway.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- There are six standards you must meet. I'm going to ask you about two of the standards

Translator- Can you repeat that?

Mr. Rangel Morales- I'm going to ask you about two of the standards.

Translator- Two, right?

Mr. Rangel Morales- Correct.

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- And you can tell me why you think you meet that standard?

Translator- Sorry. I really have trouble hearing you

Mr. Rangel Morales- And you can tell us why you think you meet that standard?

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- The first standard is that there's practical difficulties and why you need to do this?

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- That is related to the property.

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- In other words, why can't you use the alleyway?

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- Now it sounds like you're saying that you're having problems with the neighbors.

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- And that you don't want to build a bigger garage in the back, because you want to preserve green space.

Applicant- The reason I don't want to do the alley because if I want to do the alley I'm going to tell the neighbor to move the boat, move everything. So I don't want him to get mad at me. Okay, I not don't like him. So, I do, I do like him, but I don't want him to get mad at me. He going to say because I want driveway, I want to make parking there and he have to move everything. I don't want him to get mad at me. I need nice neighborhood.

Mr. Rangel Morales- So the picture that we're seeing, that's parked on your property?

Applicant- That is in the alley. But if I open the fence so the city gonna tell him to move everything there. So I don't want him to get mad at me because he got to move so I don't want him mad.

Applicant- (*Speaking Hmong*)

Applicant- Yeah. I have only two. I have only two reason. I have only two reason why, the first one. Yeah the first one.

Mr. Rangel Morales- The first one. So the first thing, and also let the Interpreter, interpret.

Applicant- No. I can talk myself.

Mr. Rangel Morales- Okay. Let me ask, let me rephrase the question. So there's practical difficulties in why you need to build the driveway. Not saying that there is or isn't. All we've received so far is that you don't want to upset the neighbor. In my opinion, that doesn't amount to a practical difficulty.

Translator- (*Speaking Hmong*)

Mr. Rangel Morales- But the applicant stated that when you park in the street your cars are vandalized?

Translator- (*Speaking Hmong*)



Applicant- (*Speaking Hmong*)

Translator- I could park any time until the snow time for the snow plow and I'm not allowed, but you don't understand my two problems, my concern.

Applicant- (*Speaking Hmong*)

Translator- Number one, it's not that I don't like the neighbor. I'm concerned that your with putting the driveway in the back, the city's gonna make the neighbor move their trailer and their boat. And then the neighbor will not like me.

Mr. Rangel Morales- It sounds like the city already needs the neighbor to move that anyways because they're in the alleyway.

Mr. Saylor- And that's the city's responsibility.

Translator- (*Speaking Hmong*)

Applicant- (*Speaking Hmong*)

Translator- My point is that the alley is in right there and the neighbor actually parks three and four cars there, and he's going to the neighbor is going to end up to move their car and they going to get mad at me. That's my concern.

Mr. Saylor- So, I have a question. Why hasn't the city moved that stuff out?

Mr. Eide- Chair Miller and board members. I actually called parking enforcement and it sounds, based upon what the applicant said, some of the stuff got moved out, but then they might have moved something else back in. I asked the applicant why they didn't... I think that they didn't want to call for retaliation purposes or whatnot, but I called just to see, like can you send a parking enforcement person out there to see what's going on and they said, sure, but I didn't get a follow-up or visit the property again. This was like a week ago.

Mr. Saylor- I'm sympathetic to the applicant with neighbor concerns. I'm really questioning why the City of St. Paul, if that looks like a platted alleyway, is that correct? What in the world is that stuff doing park there and why hasn't the city moved it?

Mr. Diatta- Well, typically nobody complains the city doesn't know about it, but now that we know about it.

Applicant- So that picture not only two on front, you can see there is another two in the back.

Mr. Saylor- There's more?!

Applicant- There's more, two or three more on the back.

Mr. Saylor- And which house owns the stuff?

Applicant- Don't know. Don't know whose. But not mine.

Mr. Saylor- For sure. Yeah.

Mr. Miller- Does the alley dead-end?

Mr. Saylor- Maybe.

Mr. Eide- Yeah, so the alley does dead end here to the north, but no one should be parking their stuff in here. It's city right away.

Mr. Saylor- Yeah. That would go pretty far from my perspective to alleviating this issue. Get the city to do its job and clean this stuff out of there. All those things. Yeah.

Mr. Eide- And that's my car. So that's not illegal parking.

Mr. Saylor- That's, that's the one they probably moved.

Mr. Rangel Morales- Yeah, they need to tow that one too. (laughing)

Mr. Saylor- Commissioner Rangel Morales, may I ask a question?

Mr. Rangel Morales- Go ahead.

Mr. Saylor- So if, if the city moves those items, is it possible then to, for you to use the garage?

Applicant- Yeah. If they move everything and they when the neighbor comes along and they pass over through over there and then we can go out or in any time, okay, for me, but they park everything there and then when they come in, they park on front of my garage. How I can get in or get out when I open my fence?

Mr. Saylor- I understand.

Applicant- Yeah.

Mr. Saylor- Lets, yeah.

Applicant- So I don't want him to get mad. I don't want to say anything. Hey, you gonna move this? I'm gonna open the fence. I don't want to do that.

Mr. Saylor- I think it's possible for the city to do the hard work and you don't need to, with the moving.

Applicant- Yeah, the city better do. I want to open it. I want you to move. I don't want do that. I don't say anything. I don't want, he gave mad at me. Sure. So I want the city to work.

PaYing Vang- Can I say something?

Mr. Saylor- Please.

PaYing Vang- So we can do the back. Yes. But personally, our preference is we want to do the driveway in the front because we have like three or four cars. And if we did do it in the back, we can only park three cars at the most.

Mr. Saylor- Does the garage hold one?

PaYing Vang- Yeah.

Mr. Saylor- And then just for clarification, the other two could go on pads next to the garage? In theory.

PaYing Vang- They can, yeah they can go right next to the garage on the left.

Mr. Saylor- Okay. Yeah.

PaYing Vang- And like what we said earlier is that we don't want to move the fences in the back because we feel like it's unsafe for the kids. We want it closed down so the kids can play in the back. Um, if we open the back and we did the garage there, we feel like it's is going to be open space. We have like kids like they're going to be two to three years old. And yeah, sometimes the parents are not home, so we're just kind of there will be, like, the older kids will be watching them.

Mr. Saylor- And the parking on the street. I mean, I also live in St. Paul, also can't have a driveway, also have a one car garage with the only one space. And the challenge is to use the front where we also have a night plow route. The only thing we can do is to park around the corner on a different street but its only when it snows, and there's a snow emergency, that's, that's an easy free solution that would keep, because the driveway can't, it can't be, it can't be built,

like commissioner, Rangel Morales was explaining it, so when those houses were built, that was legal. The zoning code now doesn't permit that type of construction. I know the neighbor's house has it, and it must be challenging for your family to look at the neighbor's house and see a driveway and be told you can't have a driveway.

Mr. Rangel Morales- I know we've never, so at least two times that's been brought up. I'm sorry. Can you state your name and address.

PaYing Vang- I'm PaYing Yang, 865 Newcomb Street.

Mr. Rangel Morales- Okay, thank you. So at least two times now, the people that have spoken have talked about, well I think it's two issues. One is the stuff going on in the alley that's preventing them from being able to use our property. I don't know, we're still doing the interpreter, but can that be interpreted?

Mr. Eide- Are you here still?

Interpreter- Yeah, The Interpreter still here. Yes.

Mr. Rangel Morales- We might need you don't interpret some things here. So there's two issues. The first issue is the neighbor should not be doing what they're doing.

Mr. Eide- Can you hear that?

Translator- No, I don't hear.

Mr. Eide- Oh, he said the neighbor should not be doing what they're doing.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- The second question. This the second question is still the issue. Because it sounds that even if the neighbor removes the items, you still want to be able to build the driveway because you want to preserve the green space and the fence for the kids, is that correct?

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- Is there anything specific about where your property is located?

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- That makes it feel makes you feel unsafe?

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- Either for your property or for the safety of the kids?

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- And any one of the three should answer.

Translator- *(Speaking Hmong)*

Applicant- *(Speaking Hmong)*

Translator- Actually, I actually blaming a lot of time about the things that I feel unsafe. Number one, if I put my driveway on the back and actually I would tear off the fence. And the kids will go back and forth and actually so this is to have an open in the back like that, then actually is not going to be safe for the children. And if the city approved for me to put the driveway out front then it will be safer for my children. Secondly, if I have the back all open without fence, then it's

not safe for the children. And then they're to go in and go out without the fence, then it's now safe for my children, go back and forth.

PaYing Vang- So if we were to do a parking in the back like daytime I'm sure it's going to be safe, but during nighttime is a little, I feel like it's a little unsafe because it's really dark back there. At the night time. Like if you look at it, there's like a lot of trees back there and there's no lights back there. So if we were like to come home during the night, and parked back there, it's just that, it feels a little unsafe if you want to come home, because, you know, we come home late at 10 p.m., 11 p.m., so.

Mr. Miller- David, is it common for alleys to be unpaved like that?

Mr. Eide- Board member, chair Miller. This is not paved. I mean, there's various types of alleys, some are gravel, some are asphalt, some are concrete. I don't know what percentage in the city are paved versus gravel or whatnot though, but yeah, this is more of a gravel alley not paved with asphalt or concrete.

Mr. Miller- Do we have any other questions for the applicants?

PaYing Vang- And can I also add something?

Mr. Miller- Yes.

PaYing Vang- I just said that we can park three cars, but did you... I think I talked to you, David, before that. You said that there was a zoning something that you cannot do. Um, that you have to be a couple feet off the property line?

Mr. Eide- Yep. Chair and board and applicant, so it's a for there's a four foot setback requirement, that's required. So that, the proposal, that the applicant submitted it show 0 foot setback and we added that to the variance request because it would be required, the variance and required to do what they're proposing. We proposed a curb if they were to be granted that, they'd need to put a curb in just to prevent the runoff from going to the neighbor. In the back, there would also need a four-foot setback to for paving for parking.

Translator- So do I need to interpret that?

Mr. Eide- I don't think so. Thank you.

Mr. Miller- We have any other questions? Okay, I think and you can interpret this. That's all the questions we have for now. I'm going to ask if there is anyone else here to speak for this variance request. I don't think that there is, but I'm going to ask for the record. You can start with that.

Mr. Eide- Did you hear that?

Interpreter- May I interpret that?

Translator- Can you repeat that for me?

Mr. Miller- Yeah. So now, I'm just going to ask if there's anyone else to speak in favor of this variance request? Anyone here from the public to speak in favor? Anyone here to speak in opposition to this variance request? Anyone here to speak in opposition? Not seeing any, I'll close the public portion of the hearing. And we will discuss and ask for a motion.

Translator- *(Speaking Hmong)*

Translator- For this. Final is that I will not be allowed to put the driveway up front. It has to be on the back of alley. Or do I have to just wait for your answer?

Mr. Miller- Well we're going to decide right now.

Translator- *(Speaking Hmong)*

Mr. Miller- Okay. So board members, is there a discussion or motion? Where are we at with this? Mr. Saylor.

Mr. Saylor- So this is a comment, it's a challenging case and while the evidence we have, using the City's guidelines. Restart: I think there are solutions for this that I would suggest. Parking on the street is a solution, okay?

Translator- *(Speaking Hmong)*

Mr. Saylor- Second. The city has responsibility to clear the items from the alley.

Translator- *(Speaking Hmong)*

Mr. Saylor- And third: to place the parking in the back next to the garage, for safety, external lights on the garage or in the yard.

Translator- *(Speaking Hmong)*

Mr. Saylor- That's it.

Translator- *(Speaking Hmong)*

Mr. Miller- Explain that too, this is just a conversation.

Mr. Rangel Morales- This is a conversation that we're having between us. Can you translate that?

Translator- *(Speaking Hmong)*

Mr. Miller- The public input has been closed. Can you translate that, I'm sorry.

Translator- Can you repeat that?

Mr. Rangel Morales- So, the public input has been closed.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- I agree with commissioner board member Saylor.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- I understand that you guys have four cars as a family

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- And that you would like to park all of them out of the street.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- It seems you can park if you create a pad in the back, you can park three cars, maybe four cars there.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- I know you don't want to do that because you want to preserve the green space.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- But that's your decision to make, on whether you want to park two cars in the street and preserve the green space.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- In order for us to be able to say you can put the driveway from the front to the back, you have to meet these standards.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- I was trying to understand if you were having problems with vandalism or because of the particular area that you lived. There was, your property was being damaged when it was in the street.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- That would necessitate putting a driveway so that you can keep an eye on your property.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- But it doesn't sound like that's the case.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- So this situation is not very different than almost any house in St. Paul, it has a single-stall garage and multiple cars.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- So I'm going to agree. I'm going to agree. I don't know about the other board members. I'm going to agree with the staff recommendation to deny the pad.

Translator- *(Speaking Hmong)*

Mr. Miller- Would somebody like to make a motion?

Mr. Rangel Morales- I'll go ahead and make the motion. Thank you, Yaya. I'm going to go ahead and move to deny the request for the two variances based on finding one through four and move the staff recommendation.

Translator- *(Speaking Hmong)*

Mr. Rangel Morales- I hope the city will clear the alleyway so that you can park back there.

Translator- *(Speaking Hmong)*

Mr. Miller- Is there a second?

Ms. Trout-Oertel- I'll second.

Mr. Miller- Seconded by Trout-Oertel, can we get a roll call?

Ms. Linston- roll call vote: Saylor-Yes. Trout-Oertel-Yes. Rangel Morales-Yes. Miller-Yes.

Mr. Miller- I'm sorry, your variance request has been denied and that decision is final unless appealed to the city council within 10 days.

Translator- *(Speaking Hmong)*

Mr. Miller- Would you mind signing the book? Just write your names in the book before you go?

Mr. Eide- Okay then yeah, tell them to please sign the book so we know who they were.

Translator- *(Speaking Hmong)*

Applicant- *(Speaking Hmong)*

Mr. Miller- Hold on one second.

Mr. Eide- Tell them the public hearing has been closed but staff can connect with staff if they want to appeal to the city council?

Mr. Saylor- Encourage them.

Translator- *(Speaking Hmong)*

Mr. Miller- We need to move on to our next order of business now.

Mr. Eide- So you have my contact information, and you can reach out to me, I have an application for appeal and that would be heard in front of the city council.

Translator- *(Speaking Hmong)*

Mr. Eide- Thank you for translating. Appreciate your help. Thank you for sticking on the phone.

Mr. Saylor- We'll make sure that gets done. Use lighting. Put up. Go to Menards, get some lights for your garage, park on the street.

Mr. Miller- We're going on to the next case.

**Moved by: Rangel Morales / Second by: Trout-Oertel**

**Denied 4-0**

**1712 Orange Avenue East:** Chair Miller- Alright, our next order of business is 1712 Orange Avenue East. The applicant is proposing to create an off-street parking area in their front yard. Two variances are requested. The zoning code states that off-street parking spaces shall not be located within the front yard; the applicant is proposing to place off street parking in the front yard, for variance of this requirement. Number two, parking space that shall be a minimum of four feet from all lot lines; the applicant has proposed parking 3 feet from the north and west property line for a variance of this requirement. David, we're under a time constraint, just so you know.

Mr. Eide- Okay, thank you very much chair Miller and Commissioners. I have the property up on my screen 1712 Orange Avenue East. It's primarily surrounded by single-family dwellings. It's the similar sections of code, 63.501 can't have off-street parking spaces in your front yard and then the setback requirement which we heard about in the last case. So staff, there's six findings again, that need to be found true. I will go through the findings. Finding one, that it's in harmony with the general purpose and intent: providing off-street parking spaces in the front yard, it is in harmony with 60.103 to flexibly address travel and parking demands from new and existing development, but it's not clear why the applicant is not choosing to provide the four-foot setback, given that they could provide more parking and provide that setback. So that is not met for, that one. Finding two, regarding the comprehensive plan. LU-14 encourages reducing the amount of land devoted off-street parking. That finding is not met. Finding three regarding practical difficulties, the applicant cites lack of accessibility to the rear yard on the property and vandalism to vehicles as the main reasons to request a zoning variance for front yard parking, but it does not appear that the applicant ever had rear vehicular access to the accessory structure and purchased the property in the current configuration. It's not clear how the lack of access creates a practical difficulty. The applicant currently has a 16-foot wide two-car garage, and could construct off a driveway by right that's 20 feet wide. The zoning code allows vehicles to be parked in driveways that lead to legal up off-street parking spaces, which would be the garage in this case. This means that they could park four spaces off-street legally by right, if they put in a two stall garage driveway. We discovered parking in the apron, which is not permitted. This, so this is not, you can't park in the apron, that's the public right away. Staff inspected the property and noted available street parking and several vehicles on site, a two-car garage. Like I said, you could have a driveway that's 20 feet wide leading to it, so that finding is not met. Finding four regarding circumstances unique to the property. A two-car garage and associated driveway, like the property currently has, is perfectly reasonable. There's not circumstances unique to the property that would warrant the granting of these variances, as the circumstances appear to be created by

the landowner. That finding is not met. Finding five regarding uses. Off street parking is permitted accessory to a single family. That is found correct or met. Finding six regarding the essential character. The property owner installed a fence to screen the parking, so granting the variance request would not alter the central character. That finding is met.

**Correspondence:** Staff, did not receive a recommendation from the District Council and did not receive any correspondence from the community. And based upon findings 1 through 4, staff recommend denial of the requested variances. Any questions? Let me show you the plan that the applicant submitted. And that's about it for me.

Mr. Miller- Can you go to the overhead? I want to see what's existing. Maybe zoom out a little or...

Mr. Rangel Morales- Is it both properties? Can you go to the proposal? Does it just look bigger in the proposal? It seems like, just the one property is not the parking that's next door.

Mr. Eide- Chair Miller and board member Rangel Morales. Correct. The drawing is not quite to scale. They used an example site plan, so the dimensions are correct, but the scale is not. So this is what it actually looks like.

Mr. Miller- So proposed is basically what's being used currently.

Mr. Eide- Correct.

Mr. Miller- Any other questions for staff? Seeing none, I'll go ahead and call the applicant forward. You can come and sit. Is the applicant here?

Mr. Eide- She's not here.

Mr. Diatta- She's aware of it. She got the notification; she was given the schedule.

Mr. Miller- Okay is there a discussion or motion? Saylor has to leave at 5:30.

Rangel Morales- I move based on staff recommendation. And you want to take anyone opposed and then close?

Mr. Miller- Anybody to speak in opposition to this variance request? Is anyone here to speak in favor? No, not seeing anyone, I will close the public portion of the hearing.

Mr. Rangel Morales- Alright. Based on staff recommendation, I'd move to deny the variance based on findings one through four, and this just looks very impractical.

Mr. Miller- Is there a second?

Mr. Saylor- I'll second that motion. Yeah, I agree.

Mr. Saylor- Moved and seconded. Can we get a roll call?

Ms. Linston- roll call vote: Trout-Oertel-Yes. Rangel Morales-Yes. Saylor-Yes. Miller-Yes.

Mr. Miller- Your variance request has been denied and that decision is final unless appealed to the city council within 10 days.

**Moved by: Rangel Morales / Second by: Saylor**

**Denied 4-0**

**1841 Lincoln Avenue:** Mr. Miller- Our next order of business is 1841 Lincoln Avenue. The applicants are proposing to split this parcel that contains an existing single-family dwelling in order to create a new lot that would be suitable for a single-family dwelling. A lot width of 50 feet is required. Both lots are proposed to be 40 feet wide for a variance request of 10 feet each.

Mr. Eide- Thank you chair Miller and board members. This is an 80-foot wide by 150-foot-deep lot, on the north side of Lincoln Avenue between Howell Street South and Fairview Avenue South, and alleyway abuts the property to the north.



It's primarily surrounded by single-family dwellings. Well, there are single family dwellings to the east, west, and south and residential land, residential, and commercial uses to the North. Like mixed use and whatnot. The section of code that the applicants are requesting a variance from is 66.231 regarding a minimum lot width. So you can see that I include the table in the packet. In the R3 zone, you need a 50-foot lot width for new lot. Finding number one, regarding the variance being in harmony with the general purposes and intent of the zoning code: like was stated in the purpose statement, the applicant is proposing to create two 40-foot lots. The proposal would likely be to create a new single-family dwelling on the other parcel. Staff have not reviewed any plans for that. The subdivision would result into non-conforming parcels that would not comply with a lot width requirement of 50 feet in the R3 zoning district. The applicant is requesting a variance of the lot width requirement. The R3 zoning district is intended to provide for an environment of predominantly low density one family dwellings. This request would allow creation of an infill lot that would be, could be, developed for single-family dwelling, which is consistent with the purpose and intent of 60.103 of the zoning code to provide for housing choice. This finding is met for the variance request. Number two, regarding being consistent with the comprehensive plan. Yeah, there's a, sorry, there's a typo. It says for both requested variances, but there's only one variance. [sic] (*Editors note: there are indeed two variances- one for each lot.*) So that threw me off. Comprehensive plan policy H-46 supports the development of new housing. So that finding is met. Finding three regarding practical difficulties: the applicants are currently able to enjoy this parcel with the 80-foot lot width. The parcel is suitable for the single-family dwelling that is on the lot and conforms to the lot width and size requirements. The applicant is creating their own difficulty by proposing to split the parcel in half, creating to lots of non-conforming width. This finding is not met for the requested variance. Finding four, regarding circumstances unique to the property, the plight of the landowner being due to circumstances unique to the property not created by the landowner. The property owners are proposing to split the parcel and are creating the need for the variance. Their plight is due to the request to split the parcel, not due to the circumstances unique to the property. That finding is not met for the requested variance. Finding five, regarding uses. The single-family lot is permitted in the zoning District. No, unallowed uses would be permitted. That finding is met. Finding six regarding the essential character. The request to create a new lot suitable for a new single-family dwelling will not alter the essential character of the surrounding area, given that six of the twelve lots on the north side of this block currently do not meet the 50-foot width requirement. That finding is met.

**Correspondence:** Staff received a letter from District 14 - Macalester Groveland Community Council supporting, recommending approval of the requested variance. Staff received three letters from residents opposing the variance request, one of which was from the property owner directly abutting the property at 1833 Lincoln Avenue. And based upon findings three and four, staff recommend denial of the requested variance.

Mr. Miller- Any questions for staff?

Ms. Trout-Oertel- Thank you, chair Miller. And I'm curious is too. How do you know when this neighborhood was zoned with 50-foot-wide lot minimum? I don't know how old that zoning code is. And you know, I would appreciate you talk about it.

Mr. Eide- Chair Miller, board member Trout-Oertel I believe 1975.

Ms. Trout-Oertel- Okay, so it's been there a long time. Thank you.

Mr. Miller- Is that typical of Mac Groveland to be R3 or is this a smaller section of it?

Mr. Eide- Chair Miller and board members. I can pull up the zoning map. Looks like there's quite a bit of R3's. So this is the property that my cursor is over this all looks like, all of this over to here to the river. So big swath, tangletown.

Mr. Rangel Morales- It's R4 starting below St. Clair.

Mr. Eide- Yeah, so down here, this darker yellow R4.

Mr. Rangel Morales- And then the city allows two principal structures to be built in one city lot?

Mr. Eide- Chair Miller and board member Rangel Morales, you would need 80 feet or sorry, 100 feet to build two principal structures on this lot, but you could build an accessory dwelling unit by right, or they could build an accessory dwelling if they wanted to.

Mr. Miller- Is there a limit in size to the principal structure?

Mr. Eide- Chair Miller. There is a size limit. Yeah, for an ADU now the limit is 75% of the floor area of the principal unit.

Mr. Rangel Morales- But they're not allowed to build another principal structure because they're 20 feet short?

Mr. Eide- Correct.

Mr. Rangel Morales- Are there any lots that will be able to build two principal units?

Mr. Eide- I've seen a few.

Mr. Rangel Morales- Okay. Thanks.

Mr. Miller- One other thing I noticed is that we're only here for a width variance. I did the quick calculations, and it seems like each lot would meet the 6,000 square foot size. Potentially the 150-foot depth is larger than required by that calculation.

Mr. Eide- I'm going back to the table. It looks like there, they would meet the size requirement because we do include half the alley for the size purpose anyways, so that it would meet the size. It's just the width that the applicants requesting a variance from.

Mr. Miller- I see a lot of 120-foot depth lots generally. Is this unique, or is this very typical?

Mr. Diatta- Very typical in the R4 and typical.

Mr. Miller- In R4 or R3, to have 150?

Mr. Diatta- They get half of the alley for credit, that helps.

Mr. Rangel Morales- Quick question. What's the difference in what you're allowed to do in R3 that you're not allowed to do in R4? I mean why not just rezone, I guess you couldn't, spot zoning. Okay, never mind that. What could you do in R3 that you wouldn't be allowed to do in an R4?

Mr. Diatta- Chair Miller, board member Rangel Morales. You could do single family on both districts except R3 requires slightly wider lot than R4. R4 typically 40 foot. Yeah.

Mr. Rangel Morales- So they're proposing two R4 lots basically.

Mr. Diatta- Yes, in an R3.

Mr. Miller- Any other questions for staff? Okay, now we'll go ahead and call the applicant. You guys can come up, please state your name, address and then do sign into the book.

Kurt Atkinson- Good evening, I appreciate your time this afternoon/evening and being able to visit with you. I do want to be cognizant of the time restraint mentioned earlier, following the rules of order. We went through this with the Mac Groveland Community Council, as referenced, with their unanimous approval, and it took about 30 minutes for that presentation, and I just want to be respectful of everybody's needs. What do you propose? Should I just start? And if we run out of time, we pick it up at the next meeting or how does that work?

Mr. Miller- We're going to lose our quorum at 5:30. Yeah. So if we do lose our quorum, then it will be laid over until the next meeting. It might be good to start and then also just state your name just because we're being recorded.

Kurt Atkinson- Yeah, Kurt Atkinson, 1841 Lincoln Avenue.

Amy Atkinson- Amy Atkinson, 1841 Lincoln Avenue.

Kurt Atkinson- Well, good evening, and thank you. As mentioned, we're Kurt Atkinson. We also have two wonderful daughters Annalise and Vivian. We want to thank you each for your service today, as I've been able to be part of government this afternoon. We appreciate what you do and I'll try to be as thoughtful as I can on the time restraint. But I think this is really important, as mentioned by the Mac Groveland Community Council support, unanimously of it.

I want to thank Mr. Eide for his efforts in coordinating this and putting it up. If you could have that packet we sent, have that available, I'll reference back to some of your points. Regarding what it used to look like; it was platted as two 40-foot lots. So I have a U of M download that shows we're just asking for it to be like it was. And then lastly, I also want to thank all the staff. I think the gentleman had to go, but anyone else who helped to set the room up. All of them are significantly important to today's process. So why are we here? We are here to ask for your approval and a variance and obviously a variance is because there's going to be something on that list, right? If it was all six buttons were pushed, we have an easy job, wouldn't we? And that you support the recommendation of the housing and land use committee of the Mac Groveland Community Council, their unanimous suggestion. I'm next going to just real quick, talk about what we're proposing.

I'm going to talk fast. If I talk too fast right now please stop me. And I want to before we start to thank my wife for this work. I think when you look through the documentation as provided by Mr. Eide, there's a very thorough and detailed history and reason for being able to map this out. Split parcel 1842 to 40 foot by 150 foot lots. As you mentioned, that would be pretty standard. Our neighbors sitting behind us, I'm not sure both, but Mary has a 40 by 150 lot. You can see it mapped out on there. We believe splitting the lot creates an opportunity. I'm sorry, 1841 two 40 by 150 and that 150 when, there was a gentleman on the Mac Groveland Council, who actually made their approval. He changed the 6,000 square-foot recommendation or something because that alley came up. Two 50-foot 40 by 150. Lots being 0.14 acres each along the development of an additional single-family home on lot seven that's exhibit (A) and if you scroll down there. If you go down a little bit further, you'll see... That's a really good one. Oh, it's upside down, so, see 1841 handwritten on the bottom? Yeah, there it is, okay. So it's the one to the right and then we're going to make some comments on lots 51 and 52. Because this exact precedent. This exact thing has happened literally to our neighbors two over. Allowing a single-family home on lot 7. We believe splitting a lot creates an opportunity to provide more housing in an area where needed significantly and is in alignment with the city's higher density plan for the area. I believe that was a proposal for the city plan, is that what it's referenced, for higher density housing from our area. I believe it's west to kind of like the St. Thomas area. So part of that practical difficulty, is this, this is the mission of our city, I believe, with our structural plan alignment of the city's higher density plan. The current sizeable lot is not congruent with its neighbors. Neither, what is it, honey, three to the left? You can see that three to the left are all 40 by 150 and then, oops, I lost. It's probably a better one. And then the neighbor directly to the right is also that same dimension, it's gaudy, it's out of its place, but let me read my more professional structure, not congruent with its. The current size of the lot is not congruent with its neighbors, the block, or the surrounding area. That's also represented an exhibit, B. It is an outlier that is inconsistent with a more, low maintenance urban lifestyle given the yard is an entire city lot not being utilized, which requires extensive maintenance on our part. This maintenance has taken a large toll on us both physically and mentally, and I'm not making that up. I have gotten notes from the city on my bush being too far into the yard, I get out, I try to trim it, I do my best to provide for my family and maintain this house, along with the back alley, there are some lilacs that needed to be trimmed. I wasn't able to coordinate anyone, so the city actually did it and billed me so that is a significant difficulty for us. Next, a second bullet point. The existing home on the 1841 lot is positioned fully on lot 6. You'll see we had a surveyor come in. You'll see it inside your packet, they mapped out where the line would be. Do you have that sheet? It's up a little further, thank you, right there. So, you know, it fits perfectly, it's exactly how it was

platted. When he asked, where do you want the line drawn for the city meeting? I said, put it where it was. Lot 7, it will easily meet the setback and 150 foot of depth. It meets the square footage requirement as well. Exhibits A and B. A variance is needed to allow for two parcels to exist as two 40-foot-wide lots, you've already mentioned that. Sorry, thank you. A this subdivision is zoned R3 which requires 50 foot wide lots. If you listen, it's out on the internet and I don't even really know if it matters quite candidly. I went to the website to understand the role of the Mac Groveland Council, but they actually had a comment of, why do we have this? To consider possibly changing the zoning so everybody doesn't have to go through this.

*Lost quorum at 5:30pm – Mr. Saylor needed to leave.*

Mr. Miller- Actually. Just to kind of clarify, what's going to happen now, because of this kind of unique circumstance, I would like you to continue with your normal presentation like you would, we're going to ask questions, we won't be able to make a decision today, but this will all be part of the public record and any board members that come next week will be able to read the minutes. So I don't want to force you to rush. We can't make a decision today because we did lose a member.

Kurt Atkinson- But I reserve the right to present next week?

Mr. Eide- If you reopen the public hearing, we have to re-notice.

Mr. Miller- I would have to close though, first. Wouldn't I?

Mr. Eide- Yeah. Can you carry it over?

Mr. Diatta- You can carry it over. We don't have to close today.

Mr. Miller- Yeah. And then that way you can present today the way you'd like to, we can ask you some questions. We can go through some of this again next time. And this will also give the neighbors the opportunity, if they can't make it back next week, to get their statement on the record. If anybody here would like to.

Kurt Atkinson- Would I be allowed to make comment in two weeks at the meeting?

Mr. Miller- Yes.

Kurt Atkinson- Okay, you comfortable at that honey?

Amy Atkinson- I think it's our only option at this point.

Kurt Atkinson- Ok. So thank you.

Mr. Miller- Hopefully we'll have more board members here.

Kurt Atkinson- Do we have. Yeah, you just did it earlier... Would we know how you three would vote at the end of this meeting?

Mr. Miller- No.

Kurt Atkinson- You can't. Okay, all right. Well, let me keep walking through it. I guess I reserve the right to do it again in two weeks. Is that accurate?

Mr. Miller- Yes.

Kurt Atkinson- So existing lot, on 1841 is, sorry I was rushing.

Mr. Miller- Yeah, and I didn't want to. I didn't want you to hustle over things.

Kurt Atkinson- This is really an important thing, I think not just for us, but for our city, it was just so apparent during this last meeting which, you know, I don't know a lot about this, you know? So the existing home on the 1841 lot is fully positioned on lot 6 to allow for proper development. It's easily going to meet the setbacks. The 150 feet does make a significant difference versus the 120s inside there, a variance is needed to allow for two parcels to exist as 40-foot-wide lots. Again, referencing the R3 which requires 50-foot lots. And then we just put the subdivision the legal description as well. I'll you to scroll down just a little bit. If we might scroll down to that U of M map where Amy. So can you go down a little bit further, one down, perfect. And I just think that tells the whole story. 1841 is referenced on the bottom. When the Lots were originally platted there were two 40-foot parcels. Exhibit C and D as represented up on the screen as represented up on the screen. What is that honey, six and seven. Right inside there. A split of the 1847, if you scroll out a little bit, see that. So this is the map from the U of M from 1908. What does it say? 1908? And you can see at that time, is that? Yeah, there's 51 and 52 thank you, honey. 51 and 52 had this scenario. So to the board member earlier, who referenced the history of the zoning change, the difficulty of what we're doing with high-density living, and the change. That's what created this, the difficulty, challenge.

Amy Atkinson- That home was developed in the 50s.

Kurt Atkinson- And I think Mike and Brenda. It was built. And that home was built somewhere in there.

Amy Atkinson- And its been a great addition to the neighborhood.

Kurt Atkinson- A split of 1847 parcel occurred to allow the building of the 1845 property in the 1950s. Both parcels are 40 by 150. So, again, from a, you know, thinking of our roles here, you can see it would be perfectly consistent with 4, 5 lots consistent in a row, and being properly respectful of the comment earlier of where we were showing a bunch of yellow where the zone part of... This street, if you drove down it, we'd look like the odd lot. It would be, you know, the outlier. Nope, there are. No, I don't know how far you have to go to find one that's 80 feet. So, split of 1847 property occurred with the building of 1845. Both parcels are 40 by 150. This split allowed for the development of a quality single-family home that has been a wonderful addition to the neighborhood. 1845 is the neighboring property directly to the west of 1841. That plat from the year 1908 as referenced above shows 1845 and 1847 as a single parcel with two 40 foot lots prior to the future split. Sometime in the past, the zoning code changed to conflict with the original plat. Not sure why. The requested variance to split the current parcel into two parcels will not alter the essential character of the neighborhood. It would actually enhance the essential character of the neighborhood, or more specifically the block, on the lot since the block between Fairview to the East and Howell to the West, over 50% of the parcels are 40 foot wide. So there's our 40-foot chart we were looking at earlier. 40-foot wide. The parcels directly surrounding the parcel, at 1841 Lincoln to the east, west, and south are all 40 foot lots. The original planning shows 40 foot lots as the standard for this area. Therefore, the look and feel of the locality will not change. It is reasonable and consistent with the historic record to be in alignment with the neighborhood to allow the address at 1841 Lincoln to become two distinct and separate parcels once again as originally intended. Thank you. Oh, I'm sorry. Oh, I did want to, for the record, introduce also, I think you have it, but I wanted everyone, all of our neighbors and friends to understand the comments from the Mac Groveland Community Council. After speaking with the applicant, considering neighborhood feedback. So during that process, someone from the council went over and walked by our house and they met some wonderful neighbors and you can listen to it on the video for documentation. They were nothing but supportive of it. Considering the neighborhood, consulting the Macalester Groveland long-range plan, I think that would be helpful background, and assessing the merits of the application, the Macalester, the Mac Groveland Community Council housing and land use committee unanimously passed the following resolution by a final vote of 10-0 with one abstention, and that was the housing and land use Committee, MGCC, recommends approval of both, 10-foot lot width variances for the two lots created by the proposed parcel split at 1841 Lincoln as well as a variance for a total lot area, if required. But it, I didn't think it was going to come into play, but someone felt real strong. Okay, thank you. I'll follow your guidance on that. Those are our thoughts. Any things you want to add, honey?

Amy Atkinson- I just think it would be a wonderful opportunity to provide another single-family home in the neighborhood that fits. Meets the setback, meets the, more than meets the square footage and most of the lots are already 40 and it was intended to be used that way.

Kurt Atkinson- Sorry. And most importantly fits our high-density living and we have neighbors directly 3 to the left, one to the right, one to the South, that are exactly the same.

Mr. Miller- Any questions for the applicant?

Ms. Trout-Oertel- I will save them for next time. I just wanted to thank you for your patience at this particular meeting. I know you waited a long time to talk to us and now you have to come back. We apologize.

Kurt Atkinson- And we thank you for your patience. And again, your service to all of us as residents of Saint Paul, we're grateful.

Mr. Miller- Would, just by a show of hands, would either of the other people here like to testify today to get their opinions on the record in case they can't make it back next week?

Mary Dearing- Sure. *(In audience.)*

Mr. Miller- Okay, so we'll ask you guys to sit down. We'll have you sit down and then obviously we'll see you next week.

Kurt Atkinson- Do we sign out?

Mr. Miller- Yeah, that'd be helpful.

Kurt Atkinson- Can we come back up again if there are any questions?

Mr. Miller- You'll have time today too, but next week also. Yeah, sorry. This is kind of an atypical day here today.

Mary Dearing- Hi, I'm Mary Dearing and I live directly in the house east of 1841. I'm 1833. I'm the house that's most affected probably by the change and they're just a couple of points that I feel are important to make. I did submit a letter, and I imagine that's in your packet. I've have concern about a large tree in my backyard with roots that are estimated by my arborist, that go deep into the lot at 1841 and so if there was excavation, my tree could be damaged and then I'd be responsible for the removal of the tree. So that's a concern for me. And also I feel like that block has actually two very large lots on it, in addition to Kurt and Amy's. One is at the corner. It's a completely empty lot at the corner of Fairview and Lincoln on the south side of the street. So it's really right on the corner and it goes almost all the way to the alley there. There's a house right on the very bottom of the lot, so that's a, I'm sure. Yep. So there's that lot and then on the other side, actually the last house on the west side also has a very large lot and interspersed within the block there are lots, large side lots that are no not as large as Kurt and Amy's but certainly it's a characteristic of that block. So I think that's really important to realize that those are interspersed and it's not an unusual thing for that block. And finally, I guess Kurt & Amy no longer live in that house. I don't know if you were aware of that, but they've moved. So I feel that it's a little bit disingenuous for them to say the upkeep has been, it's been a struggle, I appreciate that. But it no longer is a struggle for them anymore because they don't live in that house anymore. They own a new house. And I actually have talked to, and I wasn't aware of the Mac Groveland Council meeting. So they didn't inform me, and I don't know, where you informed Beth? That it was going to be held. So that was a big lapse on their part. And I have talked to neighbors who are concerned, actually, about the change in the putting up a new house and that lot, increasing the density of that neighborhood, which is characteristically kind of a low-density neighborhood.

Mr. Miller- I just want to get my bearings on here. David, can you point out the subject property, and then this, the neighbor's property. I just want to see. Because we should be able to see the tree.

Mary Dearing- It's a border tree, almost. That's what David had mentioned. It's a border tree. It's a, it's a large maple.

Mr. Eide- It's actually on the applicant's survey that they submitted. Here's the tree right there.

Mary Dearing- Most of the branches. It's almost, the to the trunk is just right on the property line. And most of the branches are on my side of the lot, and the arborist said, then that means the large roots, the major roots, then go into their lot. So I feel like that would, that's a significant problem for me, actually, as an individual. And so I'm just not sure. I feel like and I feel like this process, the fact that I wasn't included by Mac Groveland Council was really a lapse on their part and so other and I don't think other neighbors got a notice too. So there was no opportunity to a public comment at that point.

Mr. Miller- Yeah. Do you know how a community councils notify? Do they have any specific requirements for that because they clearly get input from neighbors?

Mr. Eide- Chair Miller, they're independent 501(c)(3)'s, so while the city does give them funding, they must have an email list, I'm not exactly sure, maybe they send out postcards, I'm not exactly sure how they do their notices.

Mr. Miller- Have you gotten noticed before, for any for any of their meetings?

Mr. Miller- I mean this is seem like a major thing for our particular block specifically, because the city is so diligent about informing us, I would have thought that the council would have, the community council would have, as well.

Mr. Miller- Okay? And you did say we have a letter also.

Mary- And were there. Because this. I've talked to four neighbors who were concerned, about the change, actually. So I don't know if anybody submitted or I think somebody, Jim Finnegan called you. Is that right, David? I think he said you took notes.

Mr. Eide- I think so. I can't remember exactly. But yeah.

Mr. Rangel Morales- So could you clarify. Is it your concern the tree, or?

Mary Dearing- My concern is the tree, and that's not necessarily a finding, but if it is.

Mr. Rangel Morales- Oh no, I get your concern. It's a legitimate concern.

Mary Dearing- Yeah.

Mr. Rangel Morales- And you can't see the scale of the tree, but my guess is probably a beautiful tree.

Mary Dearing- Yes.

Mr. Rangel Morales- Okay. And so my question is if that my question to you is if that issue is somehow you know, addressed, does that take away your concerns per se or is it also the fact that the lot is being pared down and subdivided?

Mary Dearing- Well I think, I mean, the tree is a major issue for me, obviously, thank you for noticing and recognizing that. But I think also just the neighborhood will be altered, truthfully, the sort of basic characteristic of the neighborhood would be altered by a house going up there. And my understanding, actually, I was, the way I read the city plan for increased density is for moderate income housing. I feel like that's where there is the real lapse. Maybe there's a low density and Mac Groveland in the city, and I mean, that's a high tax area. So, I suppose it's to the city's benefit to have more density there, but I think, overall, I think the push towards density is for moderate, to house moderate- and low-income families, not necessarily a family that can afford a house in Macalester Groveland and that's just a personal opinion, I don't know.

Mr. Rangel Morales- So my question is, based more on what they can do now as a matter of right and what they're trying to do as a matter of variance. So the initial questions that I asked was what could they put, so the city's working

on upzoning, or the infill study which is a study to try to bring more density into the entire city. And one of the things that the city now allows is if you have a property, apparently that very few qualify, but if you have a property large enough, you don't even have to subdivide the lot. You could just build two principal properties in the same lot. Now, it seems like they're not eligible for that but what they would be eligible and what Mr. Eide was clarifying is you could be they could build an accessory dwelling unit somewhere in the property as a matter of right? Is that correct Mr. Eide?

Mr. Eide- Correct.

Mr. Rangel Morales- And so that could be either its own, usually what we've seen is like a garage, a 2 car garage with like a larger, it ends up looking essentially like a house, a pretty moderate sized house. Not anything big. And so I'm trying to understand from you, whether your objection is the tree or what they would otherwise already be allowed to do anyways? Do you see what I'm saying?

Mary Dearing- Well, my objection is the tree and I think you... Could you sell a house, could you sell an accessory building, if it was on that property? I think that's usually, it's usually a mother-in-law apartment, right, is what you're talking about?

Mr. Rangel Morales- Or rental.

Mary Dearing- I think is what we're talking about. I don't think we're talking about two full-size houses. Right? So I don't think that's a really relevant question. I'm sorry. Because we're not talking about accessory, we're talking about a full sized, house going in next door to me.

Mr. Rangel Morales- I was talking more about just the fact that there would be a building, a moderately sized building next to your property.

Mary Dearing- That could still damage my tree, either way, right.

Mr. Rangel Morales- But my question is, is the concern that, that there's a new building going to next to you taking away the green space?

Mr. Rangel Morales- Yeah, I would. Yes. Putting it that way, and actually Kurt and Amy's lot is a lovely one. It's got a massive, I don't know if this is relevant, but in terms of green space, a massive silver maple that will have to come down, some flowering trees, I mean, they add to the, I would say the kind of characteristic of the neighborhood that the neighbors can enjoy. And if those are gone, then they're gone. Right?

Mr. Rangel Morales- And I don't, just as we're having this discussion, we tend to get these a lot, in terms of when there's a lot with people who have a property that's sort of is enjoyed by....

Mary Dearing- Yeah, I appreciate it. Yeah. And it's not that's, you know, kind of another issue.

Mr. Rangel Morales- And that's just what I'm getting at, is, even if we were to deny this, by right, they would have a right if they wanted to chop down every tree.

Mary Dearing- Exactly.

Mr. Rangel Morales- But I really appreciate your one, staying. I appreciate you advocating for your tree and taking the time to...

Mary Dearing- Well, I think just clarifying that there are large lots on that block. It's not a very dense block and I don't, and other people aren't rushing to do that, frankly. So, there's some, I think, understanding among the neighbors to, we want to preserve the block as it is.

Mr. Rangel Morales- Thank you.



Mary Dearing- So yeah. And then just the fact that I wasn't notified seems kind of a little bit untoward.

Mr. Rangel Morales- How did you get the... Did you get our flyer?

Mary Dearing- Yes, I got a letter. I got a letter on actually last, it arrived last Saturday, so five days to respond. Right.

Mr. Rangel Morales- Sure.

Mary Dearing- So. Any other questions?

Mr. Miller- That's all the questions I have. Thank you.

Mary Dearing- Sure.

Mr. Miller- And did you sign into the book? Yeah. Okay, and then I'll ask if anybody else is here to speak today? No.

Mary Dearing- So can people who aren't here today if it's continued to next week, they can come. I mean, in two weeks from now, right?

Mr. Miller- I believe it'll be a Monday again though, instead of a Tuesday, they're usually Mondays except for Labor Day.

Mary Dearing- Thanks.

Mr. Miller- And then the applicants, you could either choose to address any of that today or we could talk about it next time, too. But if you want to.

Kurt Atkinson- I guess it would be a good time to address it right now. If you could bring up that surveyor map, regarding the tree?

Amy Atkinson- Before we do that, I do want to say, if you look at the fence right there around the tree, we actually have a fence that's protected that tree the entire time we've lived there and supported that. And I think that it's a wonderful tree and I'm really happy it's there.

Mr. Rangel Morales- Is there a tree that is, where that 7, is that is currently there that would have to be removed?

Amy Atkinson- No, that's a sport court. Like a cement pad.

Kurt Atkinson- That's a sport court, where the 7 is. That's a basketball court.

Mr. Rangel Morales- Okay. So, is there a plan for where this house would go?

Kurt Atkinson- We don't, we would seek your approval before I can do any plans. No, I mean, we haven't made a decision. We're doing a lot of stuff around. I was not aware of being able to put a second rental in. I don't, we don't have a plan at this time to be quite candid.

Amy Atkinson- I think it's a wonderful opportunity and put another house in the city where there's such an easy place to build it.

Kurt Atkinson- Can bring up the thing that shows the width of the current city lots? There are no other 80 foot lots on this, I don't believe.

Amy Atkinson- The Andersons have I don't know wider lots.

Kurt Atkinson- Yeah the one huge lot on the other side is the one that supported. Yeah. Is there an easy way to 40? Here it is. So I don't know what we're talking about here, but 40. See all those 40s. I think that's 40 feet, right?

Mr. Diatta- Well, the 47 is a 40 and a half. Yeah. In between the 50 or so.

Kurt Atkinson- But I mean for the essential character, I'm trying to walk through the items that I know are important. There are no other ones like this. This is enhancing the essential character of the neighborhood. It's being synonymous with the neighbors, a welcoming inclusive community, where lots are the same. Who wants to be the person that's got the 80-foot yard. I've learned, I don't think motion does any good here. So maybe we'll scroll a little bit. Was there any other ones? Just that point of order?, I thought was crucial because I don't believe you scroll to the left.

Mr. Eide- This is the plat map. Not the... Red parcels are the actual parcels. The plat is underlying. So I just want to clarify.

Kurt Atkinson- So there are none that are even 60, right?

Amy Atkinson- The Anderson's have 60.

Kurt Atkinson- The Andersons are on the other side. So I just think that's kind of important as you make this decision. So we talked about the tree. We go ahead, please.

Amy Atkinson- I think this decision would fit the character of the neighborhood, no problem. I think you could build a lovely home in that lot and it would fit the character of the neighborhood.

Kurt Atkinson- And, to be quite candid as we're all neighbors here in St. Paul, I don't know if the mission is to go out and rally the neighborhood in opposition to what I'm trying to do here in the next two weeks. And if it is, people have the right to do what they want. There was a clear notice given for this meeting. The only reason we're not voting is because of timing, which we deeply respect and understand. But again, I'm going to sit back and let the leadership of this board make the right choice, so. Any other, Mr. Chair? I'm not sure how it works. Any other questions?

Mr. Miller- The only other thing I'd point out too, is, now that you have the staff report, you can see, which findings of fact, they agreed with which ones they didn't. They also they agreed that the variance will not alter the essential character of the surrounding area. Are the ones that they had a problem with were finding number three and that was that the applicant has not established that there's practical difficulty in complying with the provision. And then number four that the plight of the landowner is due to circumstances unique to the property and not created by the landowner. So those are the two that they pointed out as problems in the findings.

Kurt Atkinson- And I hope that today's testimony addressed those in a way.

Mr. Miller- Yeah, and then hopefully, obviously you'll have a chance in two weeks' time to maybe drill down on those more specifically.

Kurt Atkinson- Yeah. Hopefully our notes walk through those. And again, I don't think anybody would show up if all six were met, right?

Mr. Eide- They do.

Mr. Miller- Yeah.

Mr. Rangel Morales- Would you, and Yaya maybe this is a question for Peter, but would a condition protecting, because it seems like that tree is a property line tree, so.

Kurt Atkinson- Can you inform me on what property line trees are?

Mr. Rangel Morales- I don't know.

Kurt Atkinson- I had a surveyor. And the majority of it. Do you know what the policy is on it?

Mr. Rangel Morales- So our city counsel, who usually sets with us could answer that question. I'm just, but my question to you is whether if that is considered to be a mutually owned tree, whether you would be opposed to a condition that would protect it so that it's not damaged in any excavation.

Amy Atkinson- We're not opposed to anything...

Mr. Rangel Morales- Yeah. Yeah. It's just a thought it only in the sense that like only in the sense that those type of items, bring a lot of, it's one thing if you want to chop down a 28 Maple or the 14-foot apple, right? Those are your trees very clearly. You can. If you wanted to use those for firewood, I'm not saying you do. I'm just saying, no one can stop you. And if you wanted to put a fence around your entire property and take away the green space. No one can stop you from doing that either. I'm just, but that I could see how if you have a beautiful tree and it adds value to your home while you would be really concerned that if someone's going to build a home next to it, you'd be concerned about it. So just a thought, we can further continue and maybe Mr. Warner can lend some additional. Mr. Warner is the city attorney who usually sits with us.

Kurt Atkinson- And again, our mission has always been to be exemplary neighbors. If any public comment in is in there, I believe, I have plowed that sidewalk end to end for every neighbor on that street multiple dozens of times in my 17 years. As referenced earlier, I have deeply respected that maple, we've never done anything but love it like we did all our other trees, so it's not my intent to...

Amy Atkinson- A question about a lot line tree, what qualifies it?

Mr. Rangel Morales- I don't know, I'm just wondering if, you know, whatever it is, if it's if that's a hang up. If that particular tree ends up being a hang-up, whether as a condition of lot splitting, there could be, and this is a question for Mr. Diatta, whether we can put this type of condition of protecting, that any building that goes in there would take measures to protect the tree, or the root system.

Kurt Atkinson- It sounds like the opposition was not just to the tree.

Mr. Rangel Morales- I understand.

Kurt Atkinson- If I could appease that easily, that would be a different discussion.

Mr. Rangel Morales- I understand that there's various opposition to it, but I'm asking about this particular opposition.

Amy Atkinson- I believe most, I believe the trunk is actually in the neighbor's yard, but we'd have to.

Kurt Atkinson- Again, that's what we had the survey done. I was hoping it would kind of provide us, bringing it back to what it was.

Mr. Rangel Morales- Just a question.

Mr. Miller- I think that'll do it for today. I don't remember exactly how to end a hearing in which we can't make a decision to do so. So I'll just thank you all for your time. Your letter and your response are in the public record. And those minutes will be read before the next meeting also. And you guys will have an opportunity again in two weeks' time.

Kurt Atkinson- Is it two weeks from today?

Mr. Miller- No. It's going to be a Monday.

Mr. Eide- No, I'll send out the stuff again.

Kurt Atkinson- It's the 19<sup>th</sup>? Let me see if I'm in town because...

Mr. Diatta- I know otherwise, Typically, every, every other Monday, but Labor Day kind of throw things off a little bit.

Mr. Eide- If you cannot make it, we could extend it or push it to a different meeting because we have till October 13, but we can also extend it another 60 days for the 60-day rule.

Mr. Miller- Okay. And we're not clearly making a motion to lay over a certain time? So we're just continuing the meeting.

Mr. Atkinson- I believe I'm scheduled to be out of town that day, previous before any of this, we thought this was gonna be a 45-minute meeting, so apologies.

Mr. Eide- So I think staff could administratively schedule it for a different one.

Mr. Miller- Yeah. Why don't you guys just be in contact about that. On your end it doesn't matter when the, when the meeting is. We are adjourned.

**Moved by: None / Second by: None**

**Continue in 2 weeks, lost quorum at 5:30pm**

Submitted by: Maxine Linston

Approved by:

David Eide

Diane Trout-Oertel, Secretary